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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,201	12/10/2003	E. Lee Wilkinson JR.		4607

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EXAMINER

CHAPMAN, JEANETTE E

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 02/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/731,201	Applicant(s) WILKINSON ET AL.	
	Examiner Chapman E. Jeanette	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-26, 29-50 and 52-62 is/are pending in the application.
- 4a) Of the above claim(s) 23 and 29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 33-47, 50, 52-58, 61 and 62 is/are rejected.
- 7) ☒ Claim(s) 24-26, 31-32, 48-49, 59-60 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claims 1-22, 27, 28, 51 have been cancelled.

Claims 23, 29 have been withdrawn.

Claims 24-26, 29-50, 52-62 have been examined below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 23,33-34, 36, 38, 49, 54, 58, 61 are rejected under 35 U.S.C. 102(b) as being anticipated by Meckstroth (3641730) (MK) . MK discloses a method of forming an assembly of foam core panels comprising:

- A pair of panels 10 of rectangular configuration in joined relation; the panels are used to form sidewalls in a building and thus they are vertically disposed
- Each panel comprises
 - A foam slab 18 of foamed plastic material having opposed lateral surface areas spaced apart by the thickness or the lateral surface area of the slab
 - Veneers 14 and 16 bonded to opposed lateral surfaces of the slab and coextensive therewith
 - A side edge surface 25 defined by the thickness of the slab and by the side edges of the veneers bonded to the slab and to be brought into abutting relation with the side edge of another panel

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- Slots 20 being under cut to form retaining surfaces away from the edge of the surface in which it is formed; the slots extend inwardly from the abutting faces and the slots extend inwardly at right angles; the bottoms of the slots are undercut to form said slot retaining surfaces.
 - The abutable surface and the slots therein are vertically/longitudinally disposed
- The method comprises
 - Bringing the panels into an assembled relation with said side edge surfaces in abutting relation as shown in figure 1
 - Connecting the two panels 10 in assembled relation by introducing a joining member 30 into said slots 20 so as to bring retaining surfaces 32/33 on the joining member into engagement with the undercut, retaining surfaces on the respective panels. See figure 1 and 2
 - In the construction process, it is common to mark the place where the cut is to be made prior to cutting to ensure the cut is formed in the correct place. It is clear from the panel has been cut to a certain size and the undercut and slot is formed also by cutting.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 50, 62 (is/are) rejected under 35 U.S.C. 103(a) as being unpatentable over by MK in view of Mcknight et al (3,159,514) and Mckee et al (3,640,039). Mcknight discloses a method comprising: (see column 6, line 73 through column 7, line 15)

1. providing a liner of plastic polymer having plastic memory, the liner is formed with an outline corresponding to the outline on the substrate to which it is placed
2. eventually there is a coating of the outer surface portions of the liner with adhesive; initially, the adhesive is applied on the panels; one still has the liner, the substrate and the adhesive all secured together

It is clear that if the liner is placed in the slot as taught by McKee et al, the liner has to be placed in the slot by forcing the liner through the opening of the slot to the bottom in a fashion that enables the liner of Mcknight et al with plastic memory to bring the adhesive coated surfaces of either the liner or the foam into engagement. In view of the above it would have been obvious to include the liner and the adhesive in the slot in order to strengthen the attachment between two panels.

Claims 35, 36 (is/are) rejected under 35 U.S.C. 103(a) as being unpatentable over by MK in view of Day et al '004. MK includes the side frame or rail 12 with the joining means with undercut slots formed in the rails 12 and the joining member extends into the slot formed in the rails 12. . The outer veneers are disposed on opposite side faces of the core are also coextensive with the with the side faces MK lacks the top and bottom rails as shown by Day et al '004. Mk lacks the top rail overlying the slab and coextensive with the top surface thereof and a bottom rail underlying the slab core and coextensive with the bottom surface. Day et al '004 shows the top rail overlying the slab and coextensive with the top surface thereof and a bottom rail underlying

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the slab core and coextensive with the bottom surface; the building panel includes top and bottom rails 74/76, a form core 72, covering veneers 18/20. The outer veneers are disposed on opposite side faces of the core are also coextensive with the side faces. It would have been obvious to include the top and bottom frame elements added as shown by Day et al '004 to strengthen the panel. In view of the above and with the modification of day et al '004, the resulting structure of MK discloses the outer veneers are disposed on opposite side faces of the core are also coextensive with the width the side faces of the top and bottom rail and the top rails of the panels form a first set of rails and the bottom rails of the joined panels form a second set of rails. The end of the undercut slot in one set of rails extend from the core slab to a horizontal surface of one of the set of rails. The veneer is secured to each of the horizontal surfaces of the rails thereby concealing the end of the slots in one of the rails from view. See figure 1 of Mk and figure 4 of Day et al '004.

Claims 37, 52 (is/are) rejected under 35 U.S.C. 103(a) as being unpatentable over by MK in view of Bloom et al (6318042). MK lacks the means provided in the top rail for connecting panels to an overhead support. Bloom discloses a core panel with means 11/12 provided in the top portion for connecting the panels to an overhead support 23. The means is a leveler plate 32 secured to the top surface of the joined panels and providing a primary means for horizontally aligning the panels providing an accurate horizontal alignment. It would have been obvious to one of ordinary skill in the art to modify Mk by adding the means to connect the top rail to an overhead support to provide additional means of use for the wall panel of MK.

Claims 39-41, 43-49 (is/are) rejected under 35 U.S.C. 103(a) as being unpatentable over by MK in view of Grieb (4774794) and McKee. Mk lacks the joining member having a relatively

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narrow central web snugly received in portions of the T-shaped slots and thickened outer end on which the retaining surfaces of the joining members are formed.

Grieb shows joining members of core panels formed of alternative configurations and the abutting surfaces are mitered as shown in figures 4 and 8. Grieb, figure 8 shows the panels angularly disposed one relative to another. Grieb also shows the abutting surfaces are mitered to define an angled relation between the panels.

McKee et al shows a joining member 12 with a narrow central portion and thickened outer ends of a T-shape configuration. McKee shows angled joined surfaces and two/parallel sets of slots and joining members. Both sets of slots and joining members having the same cross section. The slots also include outer ends with of a T-shaped configuration. McKee discloses an angled camming surface on the joining member at one end thereof and the camming surface draws the panels toward each other when the joining member is slid lengthwise into the slots as the panels are joined. The volume of material in the joining member is minimized by passageway means extending longitudinally and by the retaining surface being defined by longitudinally extending thin walls. Specifically the joining member of McKee shows a joining member comprising; (see figures 1, 3 ad 5)

- a longitudinally extending thin solid central portion
- longitudinally extending thin walls at opposite sides of the central portion
- Thin wall sections extend outwardly from the planes of the opposite side of the central section to define the retaining surfaces and then are 90 angled on opposite sides of the central section away from the central section and toward each other

In view of the above, it would have been obvious to one of ordinary skill in the art to alternatively alter the joining means as shown by the secondary references to create a stronger attachment between the joining panels.

MK shows the slots tapered toward each other from the widest portion of the retaining surfaces 36 to the abutting surfaces 25.

Claims 42 (is/are) rejected under 35 U.S.C. 103(a) as being unpatentable over by MK in view of Grieb and McKee and further in view of Couse et al. MK not only lacks the abutting surfaces which are mitered, shown by Grieb but also lacks the portions of the slots adjacent to the abutting surfaces angularly disposed to each other and the joining member has a central web is angled to be received by outer ends of the slots. Couse et al shows the portions of the slots adjacent to the abutting surfaces angularly disposed to each other and the joining member has a central web is angled to be received by outer ends of the slots. See figures 4 and 5. ***Couse also shows the side edge surfaces of the core material directly touching and abutting each other.*** It would have been obvious to one of ordinary skill in the art to not only include the angled abutting mitered surfaces but also angled disposed slots with complementary joining members as described above in order to provide a variation of building configuration structures made with a variation of panels disposed at angles relative to one another.

Claims 53 (is/are) rejected under 35 U.S.C. 103(a) as being unpatentable over by MK in view of Bloom et al and Day et al '004. See above for the application of the references to the base references.

Claims 55-57 (is/are) rejected under 35 U.S.C. 103(a) as being unpatentable over by MK in view of McKee et al, Bloom and Day et al. See above for the application of the references to the

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base references. Member 16 is the upper end of the joining member which can easily be used as a finger grip for facilitating removal in disassembly.

Claims 29 (is/are) rejected under 35 U.S.C. 103(a) as being unpatentable over by MK in view McKnight, Jr. et al, Bloom et al and further in view of Day et al '004.

Claim 24-26, 48-49, 59-60, 31, 32 are objected to as being dependent on a rejected base claim but would be considered as allowable if amended to include the base claim and any intervening claim.

Applicant's arguments have been considered but are not deemed persuasive. The applicant has referred to the work of two previous examiners, the number of patents and the exhaustive search. Such circumstances do not always provide a basis for allowable/patentable subject matter. The present examiner cannot comment on the work of the previous examiners. The number of patents cited is typical for class 52 and the simplicity of the subject matter warrants in some instances the citing of many references. Light weight building panels are known in the art; large foam panels are known in the art of building structures. See prior art.

Applicant states that the intended field of use has only one requisite; namely, it must be capable of providing a visually attractive appearance; this statement could be applied to many structural elements in which aesthetic appeal is required. A visually attractive appearance is subject to discretion by each and every maker.

Wood veneers are also known in the art. Most wood surfaces are considered by many but not all as a visually attractive appearance. The claims say nothing about aesthetic appeal of the need to have a visually attractive appearance. Again, wood veneers are well known in the art to be cut of many thicknesses. The claims do not limit the veneer to a thickness. The examiner

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appreciates applicant's definition of the word veneer. However the prior art does not state that his wood veneer is limited to a thickness. Meckstroth terms his veneers sheets and Day terms his skins. These disclosures imply a veneer or a very thin panel of wood. The panels include foam.

Applicant implies that non-structural foam panels would wholly be inappropriate for use as wall panel for a building wall in that the same are too heavy and expensive to serve the purpose of providing functions of the suspended valence. The base reference and two other references include foam core panels. The other references are relied upon for some other structural feature not limited to panels with foam cores. The basic structure and the essence of the invention is shown by Meckstroth and secondary references Day, Mcknight and Grieb.

Meckstroth shows a panel which elements are in abutting relation when the panels are joined. Applicant's claim does not preclude post. Further, applicant claims structure equating to frame elements such as the top and bottom rails. Applicant also claims that by eliminating frames manufacturing cost are significantly cut. Meckstroth (MK) includes the limitations of the base claim. See 102 rejection. Hence it includes the advantage as much as applicant's invention with the same limitations.

Applicant claims Mk does not include all claimed limitations, particularly "abutting surfaces of foamed material in engaged relation with each other". Applicant is arguing more limiting than what is claimed. The claims do not recite that the foam material directly touching one another. Amended claim 58 does not recite the lateral side surfaces directly touching.

In the construction process, it is common to mark the place where the cut is to be made prior to cutting to ensure the cut is formed in the correct place. It is clear from the panel has been cut to a certain size and the undercut and slot is formed also by cutting.

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Applicant further argues that the method of Mckee lacks the slot. Mckee is cited for the particular of the joining member. The entire disclosure has not been bodily incorporated into the base reference. But it is unclear what applicant is meaning with the statement "there is never a slot into which anything is insertable". Again McKnight is sighted for its method limitations; again the reference is not bodily incorporated into MK.

Day is cited to show the top and bottom rails. Day has not been bodily incorporated into the teaching of MK. Mk teaches the slot and joining member. The other secondary references along with MK teach the use of veneers, there is not claim language reciting "non-structural veneers in association of foam core panels." MK and some of the secondary references of Day and Mcknight teaches the veneers in association with foam core.

Nevertheless, Day et al and MK discloses panels of a rectangular configuration and are vertically disposed with the abutting side edge surface also are vertically disposed.

Contrary to applicant's comments, Bloom teaches that the structural components 26 of a building should be suspended from a ceiling. The claims do not specifically state how the panels are suspended neither is there a distinction separating ceiling panels from valences.

Regarding the rejection of claims 55-57; the rejection argues motivation because of the combination of references. The limitations involving the four references have been specifically addressed above along with motivation for combining references. The argument that there are too many references thus there is no motivation to combine is not valid. Applicant recited limitations in the claims. One could argue that there are too many limitations claiming too many simple and known structure; but of course this line of argument is not valid. The examiner within

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may apply any number of references which meet the limitations and there is proper motivation for combining.

The strips of Grieb as shown in figure 6 show some degree of lateral positioning and some degree of preventing lateral separation. Grieb discloses the tapered slots. See figure 6.

McKee discloses an angled camming surface on the joining member at one end thereof and the camming surface draws the panels toward each other when the joining member is slid lengthwise into the slots as the panels are joined. The volume of material in the joining member is minimized by passageway means extending longitudinally and by the retaining surface being defined by longitudinally extending thin walls.

McKee discloses an angled camming surface on the joining member 12 at one end thereof and the camming surface draws the panels toward each other when the joining member is slid lengthwise into the slots as the panels are joined. See figure 5. The volume of material in the joining member is minimized by passageway means extending longitudinally and by the retaining surface being defined by longitudinally extending thin walls.

THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E Jeanette whose telephone number is 571-272-6841.

The examiner can normally be reached on Mon.-Fri, 8:30-6:00, every other fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Friedman Carl can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jeanette Chapman
Primary Examiner